

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.
THOMAS J. MILLER,
ATTORNEY GENERAL OF IOWA
99AG25112,

Plaintiff,

v.

ADVANCED EMPLOYMENT
SOLUTIONS, LLC,
an Arizona corporation;

ANN MARIE SCOTT,
in her individual capacity and her corporate
capacity as Manager and Owner of the
corporate defendant; and

MILA SPRAGUE,
in her individual capacity and her corporate
capacity as General Manager of the
corporate defendant;

Defendants.

Equity No. CE _____

PETITION IN EQUITY

The State of Iowa ex rel. Attorney General Thomas J. Miller, through Assistant Attorney General Steve St. Clair, states as follows:

INTRODUCTION

Advanced Employment Solutions, LLC ("AES"), a for-profit company located in Phoenix, Arizona, calls residents of Iowa (and other states) to sell them trash bags, kitchen

products, and other such household items, as well as Bibles and American flags.

Although not a charity, AES callers have motivated consumers to buy high-priced items by emphasizing that the company provides employment to “handicapped veteran[s],” “disabled workers,” and other “disadvantaged” individuals. AES telemarketers have been caught lying to their Iowa customers -- many if not most of whom are elderly -- about their status as veterans (one claimed to be a Vietnam vet, despite having been born in 1980); about having a disability (one claimed to have problems walking, but AES acknowledged that she had no physical disability); about only calling once a year (multiple calls are common); about the price of the least expensive item (inflating the cost by several dollars); and about how much good AES does (falsely claiming, for example, that half of all proceeds go to fight cancer). As if such lies weren’t enough, AES telemarketers engage in shameless emotional manipulation, referring to dependent children and the need to earn a “food box.”

It would be inexcusable if AES merely tolerated such deceptions and manipulations. But worse, AES provides scripts that prompt the misconduct. Company scripts instruct telemarketers to refer to made-up past conversations with (sometimes forgetful) repeat customers; to tell consumers (falsely) that AES asks for help only once a year; to talk about having a dependent child; to claim (falsely) that the consumer’s cooperation can help the caller get a “\$50 food box”; and to ratchet up the pressure by using the phrase “I’m not calling asking[,] I’m begging”

One company-approved script (“Rebuttles” (sic)) tells the telemarketer how to respond when a consumer says that his or her spouse just passed away: “Sorry to hear that. They helped us ... once a year and will be missed. Would you like to help in their memory?” With no regard

for the actual circumstances, this stock response claims a record of purchases by the deceased spouse, in order to exploit the death and turn it to AES's advantage.

Contrary to AES's "we call once a year" assurances, some elderly Iowans have been targeted repeatedly over the course of a single year. For example, a 92-year-old Charles City woman was called at least eight times from January 2012 to January 2013, and was sold more than \$900 worth of overpriced household items.

Scott and Sprague, as managers who control the operation that Scott owns, are responsible for AES's deceptive and unfair telephone solicitations directed at Iowans. AES and the individual defendants should be barred from ever telemarketing to Iowans again.

PARTIES AND VENUE

1. Thomas J. Miller is the Attorney General of the State of Iowa, and is expressly authorized by Iowa Code § 714.16 (6) (2013) of the Consumer Fraud Act to bring this action on behalf of the State of Iowa.

2. Advanced Employment Solutions, LLC is a for-profit Arizona corporation with its principal office at 3131 N. 35th Avenue, Suite K, Phoenix, Arizona 85017.

3. Ann Marie Scott is the owner of AES and has primary authority over the company's day-to-day operations.

4. Mila Sprague is AES's general manager, as well as the company's accountant.

5. Venue is proper in Polk County pursuant to Iowa Code § 714.16 (10), as Defendants have done business in Polk County, one or more victims of the conduct at issue reside in Polk County, and the specific telephone solicitations described herein were received in Polk County.

JURISDICTION

6. The Iowa Consumer Fraud Act, Iowa Code § 714.16 (2)(a) ("the Consumer Fraud Act") provides in pertinent part:

The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.

7. Iowa Code § 714.16 (1) provides the following definitions:

(f) "Deception" means an act or practice which has the tendency or capacity to mislead a substantial number of consumers as to a material fact or facts.

(n) "Unfair practice" means an act or practice which causes substantial, unavoidable injury to consumers that is not outweighed by any consumer or competitive benefits which the practice produces.

8. Iowa Code § 714.16 (7) provides, in pertinent part:

Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for reimbursement or an injunction, to allege or to prove reliance, damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth.

9. In describing remedies under the Consumer Fraud Act, Iowa Code § 714.16 (7) provides in pertinent part as follows:

If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys ... which have been acquired by means of a practice declared to be unlawful by this section ...

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a ... permanent injunction issued under authority of this section.

10. Iowa Code §§ 714.16A (1) & (3) provide, respectively:

If a person violates section 714.16, and the violation is committed against an older person, in an action by the attorney general, in addition to any other civil penalty, the court may impose an additional civil penalty not to exceed five thousand dollars for each such violation.

As used in this section, "*older person*" means a person who is sixty-five years of age or older.

ADDITIONAL FACTUAL BACKGROUND

11. In January of 2009, a telemarketer who identified herself as "Phillip" made a call on behalf of AES to an Iowa resident to solicit the sale of merchandise. The call was made to a phone number formerly that of an elderly Iowan, a number which is currently assigned to an undercover phone line maintained by the Consumer Protection Division. The call was received by a staff member of the Iowa Attorney General's Office posing as the elderly Iowan, and the sales pitch was recorded. A transcript of the call is appended as Attachment I.¹ Although the caller identified himself as a handicapped Vietnam veteran, AES has acknowledged that he had no known disability or military service record, and was born in 1980.

¹ The name and other information that might identify the intended recipient of the call has been redacted from each transcript and the recording.

12. In February of 2013, a telemarketer who identified herself as “Darnetta” made another sales call on behalf of AES to the same elderly Iowan who had been the target of the earlier call, and the sales pitch was recorded. A transcript of the recording is appended as Attachment II, and a CD containing an excerpt of the recording is being filed nonelectronically pursuant to Iowa Rule of Civil Procedure 16.315(1)(c), and will be appended as Attachment III to the hard-copy Petition to be served on each defendant pursuant to Iowa R. Civ. P. 1.305.

13. In March of 2013, a telemarketer who identified himself as “Leroy” directed a call on behalf of AES to another elderly Iowa resident (not the target of the above-referenced calls) to solicit the sale of merchandise. This call was also received on the Attorney General’s undercover phone line and recorded. A transcript of the recording is Attachment IV. This AES caller initially identified himself as being with “the Disabled Veterans,” and later claimed that “half of our proceeds” from sales would go to “breast cancer awareness.”

Investigative Subpoena

14. On June 27, 2013, the Attorney General served an investigative subpoena upon AES pursuant to Iowa Code § 714.16 (3) & (4). A copy of that subpoena is appended hereto as Attachment V.

15. The subpoena sought information that would permit an evaluation of the accuracy of various of the representations that had been made in the above-referenced solicitation calls, regarding such matters as the nature of the callers’ handicaps, the benefits to the handicapped that flowed from product purchases, and the overall operation of AES. As reflected in the attached affidavit of Consumer Protection Division Investigator Marc Wallin, many businesses that telemarket products by emphasizing the assistance given to disabled workers have used unfair

and deceptive practices, involving (among other things) false or misleading representations regarding the caller's own circumstances and disabilities, and also regarding the extent of the charitable benefit derived from the consumers' purchases of AES's merchandise. *See* Attachment VI.

16. AES's response to the subpoena was received on July 23, 2013. Excerpts of AES's response are appended as Attachment VII.

17. The responses provided by AES establish that the above three telemarketing pitches contained numerous violations of Iowa law, including repeated, blatant, material lies, as well as deceptive and unfair manipulations, all such lies and manipulations intended to induce purchases of AES's high-priced household products.

Older Iowans

18. Victims of telemarketing fraud in general, and victims of consumer fraud in the context of charitable (and quasi-charitable) telephone solicitations in particular, are disproportionately age 65 or older, at least in part because this segment of the population is more likely to be retired and at home when telemarketers make their phone solicitations, often during day-time hours.

Other Allegations

19. Neither all nor any part of the application for injunctive relief herein has been previously presented to and refused by any court or justice. Iowa R.Civ.P. 1.1504.

20. In an action by the state, no security shall be required of the state. Iowa R.Civ.P. 1.207.

CERTIFICATION AND AFFIDAVIT

21. In addition to the Consumer Fraud Act provisions cited above, Iowa R. Civ. P. 1.1501 *et seq.* provide for entry of temporary injunctive relief. Iowa R. Civ. P. 1.1507 provides that a temporary injunction may issue without notice if the required showing is made, such showing to include a certification by the applicant's attorney as to certain matters. The undersigned certifies as follows:

- a) Delaying injunctive relief by providing advance notice and hearing to Defendants is likely to result in an extended period during which additional consumers are unlawfully induced to make payments to AES on the basis of the misleading and unfair solicitation practices detailed herein.
- b) Continuation of the misleading conduct that Plaintiff seeks to enjoin would divert to Defendants charitably-motivated expenditures that might otherwise have been used for the purposes intended by consumers, namely support of efforts to assist genuinely handicapped persons who need and deserve support.
- c) The injunctive terms sought by Plaintiff would not halt any legitimate, non-misleading marketing or activities in which Defendants may be engaged. The injunction requested is not such as to "stop the general and ordinary business of a corporation" for purposes of Iowa R. Civ. P. 1.1507.
- d) Given the egregious nature of the lies and misconduct that can be reliably established, as described above, any doubt about halting the apparently deceptive diversion of funds from Iowa consumers -- many if not most of them elderly -- should be resolved in favor of preventing further victimization.

COUNT I

CONSUMER FRAUD ACT VIOLATIONS

22. Paragraphs 1 through 21 are incorporated herein by reference.
23. Defendants' acts and practices, taken in isolation and/or in combination, violate the prohibition of Iowa Code § 714.16 (2)(a) against misleading, deceptive, unfair, and omissive acts and practices, and otherwise violate that provision of Iowa law.

24. Although it is not necessary to establish reliance, damages or intent to deceive to obtain injunctive relief or reimbursement under the Consumer Fraud Act (*see* paragraph 7 above), establishing these factors, particularly intent, is nevertheless relevant *inter alia* to the Court's determination of the appropriate scope of injunctive relief and the appropriate amount of civil penalties. Those acts and practices of Defendants in violation of subsection (2)(a) of the Consumer Fraud Act as alleged in this Count would in fact induce reliance on the part of consumer victims, would in fact cause damage to consumers, and/or were in fact intentional.

COUNT II

CONSUMER FRAUDS COMMITTED AGAINST OLDER PERSONS

25. Paragraphs 1 through 24 above are incorporated herein by reference.

26. Many of the Consumer Fraud Act violations for which the Defendants are responsible were committed against older persons and give rise to the additional civil penalty provided for in section 714.16A.

PRAYER

Plaintiff prays the Court grant the following relief:

A. Pursuant to Iowa Code § 714.16 (7), and upon further request by Plaintiff addressed to the Court, enter a temporary restraining order and preliminary injunction restraining Defendants, and each of them, and (as applicable) each such Defendant's directors, officers, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, merged or acquired predecessors, parent or controlling entities, and all other persons, corporations and other entities acting in concert or participating with such Defendant who have actual or constructive notice of the Court's injunction, from engaging in the deceptive, misleading,

omissive, and unfair practices alleged in this Petition or otherwise violating the Iowa Consumer Fraud Act.

B. Pursuant to Iowa Code § 714.16 (7), after trial on the merits, make permanent the above-described injunctions, expanding their provisions as necessary by including *inter alia* such “fencing in” provisions as are reasonably necessary to ensure that Defendants and other enjoined persons and entities do not return to the unlawful practices alleged herein, or commit comparable violations of law.

C. Pursuant to Iowa Code § 714.16 (7), enter judgment against Defendants, jointly and severally, for amounts necessary to restore to Iowa consumers all money acquired by means of acts or practices that violate the Consumer Fraud Act, and/or to follow through on providing help to the disabled of the kind that was described to Iowa consumers who made purchases.

D. Pursuant to Iowa Code § 714.16 (7), enter judgment against Defendants, jointly and severally, for such additional funds as are necessary to ensure complete disgorgement of all ill-gotten gain traceable to the unlawful practices alleged herein.

E. Pursuant to Iowa Code § 714.16 (7), enter judgment against each Defendant for a civil penalty of up to \$40,000.00 for each violation of the Consumer Fraud Act.

F. Pursuant to Iowa Code § 714.16A, enter judgment against each Defendant for an additional civil penalty not to exceed \$5,000.00 for each violation of the Consumer Fraud Act committed against an older person.

G. Award Plaintiff interest as permitted by law.

H. Pursuant to Iowa Code § 714.16 (11), enter judgment against Defendants, jointly and severally, for attorney fees, state's costs and court costs.

I. Retain jurisdiction as necessary to ensure full compliance with the pertinent provisions of the Consumer Fraud Act and with the Court's orders.

J. Grant such additional relief as the Court deems just and equitable.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa



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ADVANCED EMPLOYMENT SOLUTIONS

1-20-09

PD: PROSPECTIVE DONOR

P-: Phillip

P?: ...I'm trying to reach uh [NAME]?

PD: This is [NAME].

P?: Well, I waited a year to call you back. This is Phillip, your favorite handicapped veteran, you know, Vietnam Veterans. We call once a year. Remember us?

PD: Well no. I, I get quite a few calls, I'm sorry.

P?: OK, well it might help you then, I'm the good-looking one. Nah, just trying to make you laugh. But we call once a year and uh, anything you help us with, you receive within seven to ten days. The bill's inside the box. You don't have pay anything for a whole month. Um, let me just read the smaller products to ya ...

PD: Oh wait. Let me, let me stop you. Where are you located?

P?: Uh, Phoenix, Arizona.

PD: And, and what is the name of the, this place?

P?: It, it's called A, you know like alphabet...

PD: Uh huh (affirmative).

P?: A-E-S. Advanced Employment Solutions. They hire all the handicapped people and the handicapped veterans, like myself.

PD: Oh. Well I tell you what um, I'm not going to waste your time because um, the only thing that I would be able to afford is, if it's under like, what uh, twenty-five dollars.

P?: Well I was going to say is we, uh, we got two products, one is uh, you probably can't use this, more or less for the guys but you could use it around the house. It's our lighted screw driver set. You know so you're doing something in dark, or in the corner or something like that and it comes with the multi tips and

everything. Or, our brand new product, it's our kitchen shears. Now they're all purpose, they're stainless steel, uh they never need to be sharpened. They're dishwasher safe. It says perfect for cutting meats, trimming fat, cutting you know meats and chicken in the kitchen. Shipping and handling, tax, total price is uh \$39.95.

PD: OK like I said, I can't go over twenty-five. I'm sorry.

P?: OK, thank you.

PD: Um hum (affirmative).

ADVANCED EMPLOYMENT SOLUTIONS

2-27-13

PD: PROSPECTIVE DONOR

D-: Darnetta

D-: Hello, may I speak with [NAME]?

PD: This is [NAME].

D-: Hi [NAME], how are you today?

PD: Good thank you.

D-: Wonderful, good. This is Darnetta, ma'am. I'm calling with the Disabled Workers, you do remember us, don't you?

PD: Well, I get quite a few calls. What's the name of the company?

D-: Disabled Workers. AES.

PD: Disabled Workers AES?

D-: Uh hum.

PD: What's the AES stand for?

D-: Advanced Employment Solutions...

PD: Oh, OK.

D-: ...our company, what we do is we hire and put to work disabled workers and veterans.

PD: OK, now it sounds familiar.

D-: Now you remember us.

PD: Yes, yes.

D-: Well good. Thank you [NAME]. Now [NAME] I want to thank you so very much. The reason I'm calling is to thank you so much for your past support because believe it or not if it wasn't for beautiful people like you there wouldn't be work and jobs for disabled people like me so I want to say thank you. Now [NAME] the last time that I talked to you, you had told me to wait a year or two

to call you back and I've been a good girl. I kept my word and I have not been dialing your number bugging you. But [NAME] it has become that time of the year where we make our calls out for support and we're calling this year, we're begging, I don't have to tell you how things, how bad things are in the country but on behalf of the disabled workers anything small goes a very long way...

PD: OK can I first ask, what is your name?

D-: Darnetta Mims.

PD: OK Darnetta. And where are you guys located?

D-: In Phoenix, Arizona.

PD: That's what I, that's what I thought. OK.

D-: Yeah.

PD: Now, what is like the smallest, least amount of item that you have?

D-: OK, the least is forty-two ninety-five. And you can get a breast cancer flashlight, it's beautiful florescent pink. And it has a wrist strap and a portion of the sales will be donated to the cancer society. We also have two key chains. It's a barrel key chain with a flashlight. Really nice. We also have a work utility light. It's a very bright light. 27 LED. And we also have an ironing board cover with a pad and what else do we have at that level. We have some delicious _____. They're bakery fresh lemon pound cake, key lime, angle food and cherry cheesecake.

PD: Oh, wow.

D-: And we have, and we have a beautiful brown leather case, ten piece set, manicure and pedicure set. It's really nice.

PD: OK that's all forty-two ninety-five?

D-: Forty-two ninety-five. Yes ma'am.

PD: That's shipping and handling included?

D-: Yes. Includes everything.

PD: OK, well so tell me how do, I can't remember how this works. Now if I buy this how does the money come back to the disabled workers?

D-: Well, the money comes back to us by providing work hours. When you buy and you purchase we get so many work hours. And days to work so you know

they've been laying people off and you know how things are going in the country with jobs. But when, when you guys order we get extra work days and hours.

PD: So like forty-two, forty-two ninety-five, how many hours would that give you or do you know?

D-: That'll give me three.

PD: Three hours. Oh, OK.

D-: Um hum.

PD: Well...

D-: Three hours of work, they promised me. Three hours of work.

PD: OK, well, it's kind of tight like you said. Let me go ask my husband, OK?

D-: OK and it's not something you need to pay for now. We can send, we can send it out and we can put the invoice box if you prefer or you could do check by phone. Whatever you prefer.

PD: OK.

D-: It's not necessary to pay for it today.

PD: Well let me go ask him. Just a minute please.

D-: OK thank you.

PD: Yes. Go ahead. I think I'll take the flashlight.

D-: The pink? Wonderful.

PD: Yes.

D-: You will love it too. OK. Now you are still with [ADDRESS]?

PD: Yes.

D-: OK [NAME]. Thank you so very much.

PD: Oh you're welcome.

D-: God bless you...

PD: OK.

D-: ...and my supervisor is going to call you back in two minutes to verify that I got everything correct 'cause they check up on us 'cause we are disabled workers...

PD: Oh, by the, what, what is your disability?

D-: My disability I have a hip, my hip is, my hip slipped when I was very young.

PD: Oh, OK.

D-: And I have that, you know how you have that walk where your knee, looks like it's, it's bent in...

PD: Um hum.

D-: And you kind of have a limp like.

PD: Oh...

D-: Have you ever seen a person with one of their legs looks like it's turned in?

PD: Yes.

D-: And they kind of walk...

PD: Funny.

D-: That's a hip deal.

PD: Oh, OK. I'm sorry.

D-: Yeah.

PD: OK.

D-: That's OK. Well thank you so very much [NAME]. Now my supervisor will call you right back.

PD: OK.

D-: All right dear you have a wonderful day. Bless you and your husband and your family.

PD: OK you too.

D-: All right. Thank you, bye, bye.

**ATTACHMENT III
(SEE PETITION ¶ 12)**

**FILED NONELECTRONICALLY
PURSUANT TO
IOWA R. CIV. P. 16.315(1)(c)**

ADVANCED EMPLOYMENT SOLUTIONS

3-1-13

PD: PROSPECTIVE DONOR

L-: Leroy

A-: Angelina (supervisor)

L-: [NAME?]

PD: Yes this is [NAME].

L-: Hi. This is LeRoy with the Disabled Veterans. How are you today?

PD: I'm good.

L-: Oh that's good. You sound wonderful. It must be a nice day out there in [CITY].

PD: Well I don't live in [CITY] anymore. I live in [OTHER CITY] but, it's OK. It's kind of cold.

L-: Oh OK. Well I just wanted to call and say thank you for all your past support that you've done for us in the past. It was very nice and generous of you. And behalf of all the disabled veterans we just wanted to say thank you very much. Now the last time I spoke to you Ms. [NAME], you told me to wait a couple of years because you have got another organization and, and to give you a call back. And it has become beings where we call for support. So Ms. [NAME] if you just close your eyes and open your heart, anything small will go a long way. Now Ms. [NAME] if you would give me a moment to let you know what we have and if it's something small you can help us out a couple of weeks down the road just let me know, OK?

PD: OK. Go ahead.

L-: All right. We have the American flag. We have the wind socks. We have the USA flag blanket. We also have the breast cancer packet. Half of the proceeds goes to breast cancer awareness. We have the cleaning kit. We have the laundry kit. The laundry consists of a ironing board cover, the laundry stick. The bleach stick. The stain master and the air freshener. We also have the patriotic tack. The ... with the T shirt and the US flag. The US flag blanket or the wind sock. And we also have the safety pack and that's with the magnetic screw driver. Work light, pepper, pepper self defense spray and the first aide kit. Now Ms. [NAME] I know maybe it's about one or two items that you might have to run down to the store for. But which one or two items you can find in your heart to help us out a couple of weeks down the road?

PD: Well let me first ask, I'm sorry, who is this again?

L-: My name is Leroy with the Veterans and I work for AES. And the company that I work for, we also not only help out with the veterans and become responsible citizens and also tax payers, we also give half of our proceeds to, to the breast cancer awareness. We also help out the Red Cross and also the Sojourner Foundation.

PD: Now... Wait. Now what does A, A, what, what did you say?

L-: AES. It is Advanced Employment Solutions.

PD: Advanced Employment Solutions. And where are you located at?

L-: We're located in Flagstaff, ma'am.

PD: In Flagstaff, Arizona. OK. Well, how does that work, I mean, so you said you were a veteran?

L-: Yes ma'am. I'm, I'm a former Veterans of the United States Navy. I did Operation Desert Storm and Operation For _____. Right now I'm, I'm waiting for my benefits to clear so I can have medical insurance to whereas I can continue, continue to get help as far as if I'm sick or if my, in a, and if my family members, including my son, gets sick he could get, he could get medical attention and get his glasses and also hopefully in the long run here I can also, go back to school and start my own business. And, and this company here AES, AES has been helping me become a responsible citizen. Be a tax payer instead of a tax burden.

PD: OK. Now wait, so if I were to buy something, how would that help you?

L-: What, how it would help me, OK, it's gives me another day's work. At least gives me five to close to eight hours of work per day. And, for each item that you help me out with. You know and, like I said it keeps me, it keeps me employed instead of being unemployed and you know file for unemployment benefits to whereas you know it's a tax burden towards you, you know or anyone else. And it keeps me, it keeps me looking forward to get up and you know make myself, you know, a deemable, responsible person.

PD: OK. So, so that, I mean, like when I buy that, so you get the, however much money I send?

L-: No ma'am. Like I said, like I said, just for ordering the packet you don't have to pay for anything today if you don't want to but like I said this keeps me, it keeps me employed to whereas I can still come back to work and like I said and be able be a responsible man. You know I'm very proud that to say that to my son he's working and going to school and also and it's very tough on him because you

know, you know he works long hours, he works for, he lays floors for Sears and also goes to college to be a surgical technician. And his dream, he wanted to enroll into the Army to whereas he wants to be a surgical technician there. And I'm very proud of him. I'm very happy that, he didn't follow in his father's footsteps you know. Well he, the military part he did but I also proud that he was able to go to college and you know and have some goals and have a focus whereas you know, he don't have to lean on his father to carry him and you know, and you know and be a responsible person.

PD: OK. What is your least expensive item?

L-: My least expensive is, we have the magnetic screw driver and that thirty-four ninety-five. We also have, and it's a magnetic screw driver set. It also comes with, it comes with five phillips and five straight...

PD: I'm sorry, how much was it?

L-: Thirty-four ninety-five.

PD: OK. Well can you hold, let, let me ask my husband because I get lots of calls and so I just want to make sure it's OK with him. OK?

L-: OK.

PD: Can you hold on?

L-: Sure no problem.

PD: Thanks. OK. Yeah I'll take that. I, I, yep. For thirty-two ninety-five you said right?

L-: Thirty-four.

PD: OK.

L-: And that's including tax, shipping and handling...

PD: OK.

L-: ...and everything.

PD: OK. OK.

L-: And can I get your present address please?

PD: Yes my new address is [ADDRESS INFORMATION] ...

[FURTHER ADDRESS INFORMATION]

L-: OK. Now what's going to happen Ms. [NAME]. My supervisor is going to give you a call back to verify the information that you gave me and everything.

PD: OK.

L-: And, if you want to take care of this today, ma'am, and this will give me credit, you know, this will, I will get a fifty dollar food box for, you know, for, for the credit and also...

PD: I, I won't be able to do that.

L-: OK. Not a problem.

PD: OK.

L-: OK just to let her know that, go ahead and put the invoice in the box and you'll send the payment back, OK?

PD: Yes.

L-: OK. On behalf of the veterans we just want to say thank you very much for all your support and may God continue to bless you and your family.

PD: OK. Thank you.

L-: You're welcome

PD: Bye.

L-: Bye, bye.

PD: Hello?

A-: Yes can I please speak with [NAME]?

PD: This is [NAME].

A-: Hi [NAME] my name is Angelina. I'm calling you back with AES. You just placed an order for one magnetic screw driver set?

PD: Yes.

A-: OK that's for thirty-four ninety-five. And can you please repeat your mailing address for me?

PD: Sure. It is [ADDRESS INFORMATION].

A-: OK thank you so much [NAME]. And [NAME] did the disadvantaged worker mention to you if this was to be pre-paid he gets a bonus at the end of the day?

PD: Yes he did, but I won't be able to do that.

A-: OK. Well you will be receiving it in seven to ten working days. We'd appreciate it if you mail the payment back in seven to fourteen days?

PD: Sure.

A-: And like I said we appreciate your help [NAME]. You have a good weekend.

PD: Thank you. You too.

A-: Oh OK. Bye, bye.

Address Reply To:
Hoover Bldg., 1305 E. Walnut
Des Moines, Iowa 50319

Telephone: 515-281-5926
Toll Free: 888-777-4590 (In Iowa)
Fax: 515-281-6771
www.iowaAttorneyGeneral.org

SUBPOENA NO. 2338

ATTACHMENT V

2. *State: the extent to which the purchase price of one of AES's products goes to help the handicapped or disabled, and how that help is delivered or effectuated; the extent to which the purchase price of one of AES's products goes to the telemarketer who made the sale; the total number of employees of AES, and the number of those employees who are handicapped or disabled; what incentive or benefit (if any) is provided to a telemarketer and/or verifier if a customer pays by credit card or check-over-the-phone; what the least expensive item sold by AES through telemarketing is, and how much it costs; whether AES is a for-profit business; and whether AES directs a portion of its sales revenues to any cancer-related charities, to the Red Cross, or to any other charities, and, if so, which charities and how much is directed to each.*
3. *Provide the name and address of each supplier from which AES obtains the products it sells through telemarketing, and indicate what products AES obtains from each such supplier.*
4. *Indicate specifically how soon AES makes another solicitation call to a person who makes a purchase or donation (for example, three months later, six months later, or whatever), and indicate whether AES calls into Iowa on a continuous basis, as opposed to having periodic campaigns or drives.*
5. *Provide a copy of each telephone solicitation script (including without limitation initial solicitations, repeat solicitations, rebuttals, responses to frequently asked questions, and verification scripts) used by representatives of AES at any time after January 1, 2012.*
6. *For each Iowa resident who has made a purchase from AES at any time after January 1, 2012, provide the person's name, address, and phone number, as well as the date of each purchase in that period, what was purchased, the purchase price, and the name of the telemarketer who made that sale. This information is to be provided in Excel, unless other arrangements are expressly made.*
7. *Identify each person with an ownership interest in AES; each person with management or supervisory responsibilities; and the person with primary authority for AES's day-to-day operations.*
8. *Indicate in detail the extent to which (if at all) work credits, food packages, bonuses, or other benefits or rewards are provided to AES workers as compensation, incentives, or for any other reason.*

In lieu of appearing, Respondent may provide the above-described materials and/or information to the undersigned at or before the time and date set forth, or at or before such alternative time and date as may be arranged between the subpoenaed entity and the undersigned, accompanied by the oath of Respondent. The required oath is attached to this subpoena.

Witness my hand hereunto affixed this 24th day of June, 2013.

TOM MILLER, ATTORNEY GENERAL OF IOWA

By: 

Steve St. Clair
Assistant Attorney General
Hoover Building, 2nd Floor
1305 East Walnut
Des Moines, Iowa 50319
Phone: (515) 281-5926
Email: steve.stclair@iowa.gov

NOTICE OF INTENT TO PROCEED

Service of this subpoena and Notice of Intent to Proceed on you will also constitute your only notice, pursuant to Iowa Code § 714.16(6), that your failure to comply with this subpoena may result in application to the District Court for an order compelling a response to the subpoena and, additionally, for other relief provided by Iowa Code § 714.16(6).

Witness my hand hereunto affixed this 24th day of June, 2013.

THOMAS J. MILLER, ATTORNEY GENERAL OF IOWA

By: 

Steve St. Clair
Assistant Attorney General

OATH TO ACCOMPANY WRITTEN RESPONSE TO SUBPOENA

I certify under penalty of perjury that the responses submitted by me to Subpoena

No. 2338 are true and complete to the best of my knowledge.

Dated this ____ day of _____, 2013.

Ann Marie Scott

Subscribed and sworn to before me this ____ day of _____, 2013.

Notary Public

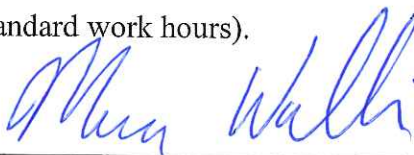
AFFIDAVIT OF MARC WALLIN

I, Marc Wallin, being duly sworn on oath, state as follows:

1. I am an Investigator in the Iowa Attorney General's Office, a position I have held since March of 2000. I am currently assigned to work in the Consumer Protection Division and the Farm Division. As one of my responsibilities in the Consumer Protection Division, I investigate various forms of deceptive or unfair practices relating to charitable solicitation, including issues relating to merchandise advertised and/or sold by for-profit entities purportedly acting so as to benefit the handicapped or disadvantaged, or veterans.

2. I have read the Petition In Equity to which this affidavit is attached, and, based on personal knowledge gained from my review of the relevant Consumer Protection Division files, can attest to the accuracy of the contents of the Petition. In particular, after several years performing the above-referenced duties in the Consumer Protection Division, I can attest that many businesses that telemarket products by emphasizing the assistance given to disabled workers have long been the source of unfair and deceptive practices, involving among other things false or misleading representations regarding the caller's own circumstances and disabilities, and also regarding the extent to which purchases of high-priced merchandise will benefit the disabled.

3. Victims of telemarketing fraud, including consumer fraud associated with telephone appeals for charitable donations or telephone sales of merchandise intended to benefit the disabled, tend disproportionately to be aged 65 and older, at least in part because they are more likely to be at home when telemarketing calls are made (often during standard work hours).



Marc Wallin

Signed and sworn to by Marc Wallin before the undersigned Notary Public in and for the

State of Iowa on this 11th day of September, 2013.


Iowa Notary Public



1. A – C

A. PHILLIP GRIFFIT

1614 S 6th Street

Phoenix, AZ 85004

(602) 340-1830

DOB: 01/1/1980

Work Location: 3131 N 35th Avenue

Phoenix, AZ 85019

Hire Date: 10/22/2008 through 10/25/2010

B. * I have no knowledge if Mr. Griffit have a physical or emotional disability.

C. * I have no knowledge if Mr. Griffit had served in the US Armed Forces.

1. A – C

A. DARNETTA L. MIMS

3329 W Hidalgo Ave

Phoenix, AZ 85041

(602) 434-2677

DOB: 08/10/1961

Work Location: 3131 N 35th Ave

Phoenix, AZ 85019

Hire Date: 01/23/2013 through 04/1/2013

B. Ms. Mims have no physical disability however, she is emotionally unstable.

C. Ms. Mims did not serve in any capacity with the US Armed Forces

1. A – C

A. ROBERT L FORD

3033 N 52ND Parkway

Phoenix, AZ 85031

(480)228-4005

DOB: 09/29/1969

Work Location: 3131 N 35th Ave

Phoenix, AZ 85019

Hire Date: 02/14/2013 through 04/1/2013

B. Mr. Ford is undergoing some psychiatric treatment. He suffered emotionally while serving with the US Navy.

Mr. Ford is a military veteran. He served in the US Navy from July 1982 – January 10, 1992

ATTACHMENT VII

2. AES gives any individual that has physical, emotional, recently released from jail/prison, recovering drug & alcoholics, living in halfway houses &/or homeless a chance to make their own way and pay their way in our society. Furthermore, we give anyone that walks in our door the benefit that he/she can earn an honest living if given the opportunity.

Currently, AES has 13 employees; 5 are recovering from drugs & alcohol abuse – cannot find a job anywhere else because “normal/regular” employers are not willing to give them a second chance and they also reside in halfway houses; 3 are receiving SSI due to their mental illness; 1 seller suffers from heart condition & has impaired speech.

Each product sold has a unit equivalent. The sale price for an AES’s products ranges from \$34.95 up to \$173.00. A Seller may solicit sale up to the amount of \$173 on the honor system** A sales that is greater than \$173 must be prepaid(e-check or credit card). See exhibit 2A

It is very beneficial to the seller if a customer is able to prepay the order. We also rely on the verifier’s persuasiveness when verifying an order not to cancel and to prepay. It is to the verifier’s discretion to drop the dollar amount and/or to cancel an order and placed a customer on the “Do Not Call”. Our verifiers ensure that the customer’s order is accurate as well as to help the seller earns good commission.

A verifier earns a bonus from \$1 - \$2 on a prepaid order.

We have 2 types of telemarketers: a ticket writer and a cold caller. A ticket writer earns commission based on the number of units produced in a given week. A prepaid order earns 2X of that on an honor system. A cold caller is paid on an hourly basis up to 32 hours per week. We give cash bonuses and we have incentive games on a weekly basis. See exhibit 2B

The least expensive product(s) we sell is \$34.95, the cost of good is anywhere from \$10 – 15 per product. Advanced Employment Solutions, LLC is a for profit business.

We do not allocate a certain portion of our sales to a charity. However, we do donate to the following charities:

Sojourner Center	\$7,488.00	
American Red Cross	3,496.50	
MSVA	3,219.50	MADISON STREET VETERANS ASSOCIATION
GOMPERS		
Susan G Komen Center		
Toys for Tots	\$ 1,000.00	

We also give to causes such as: The Oklahoma Disaster, toys & food drives for St Jude Children Hospital & St. Mary’s Food Bank.

3. EXHIBIT 3A

4. Since October 19, 2013, the day I started working for AES, I did reinforced the 90 days from the last sales date. It is the company’s policy to only call every 90 and/or 120 days; however, prior management only had their pocketbook in their best interest because their salary varied on the total sales.

**Honor system is when an order is shipped and we rely on the customer to pay the order within 30 days.

5. EXHIBIT 5A

6. EXHIBIT 6A

7. Ann M Scott is the owner of AES, LLC and she is the primary authority for AES's day-to-day operations.

Mila Sprague is the accountant and general manager of operations.

Stephanie is the verification supervisor

8. All sellers are paid every Friday of the week. Their cash bonuses are added to the check for tax purposes.

EXHIBIT 5A

A.E.S. Sales Script to be followed verbatim.

Hello Mr/Mrs_____. This is _____ with Advanced Employment Center in Phoenix Arizona. We are NOT calling for charity or donations instead we work really hard to ensure jobs for many walks of life by taking orders for products you use all the time.

We work on the honor system. Anything you order from us will be sent to you and we just ask that you send your payment back to us within three to five days after you receive your order.

We have several items we would like to tell you about. Would you have a few moments for us today? (If no, go to next call)

(If, yes go over products)

(Once you've gone over the products) Mr/Mrs_____ Is there anything from the list that you may have an interest in? (If no, go to next call) (If yes) The price for that is_____ could we send that to you today? (If no, go to next call) (If yes) Let me make sure I have your correct Address.

One last thing Mr/Mrs_____ I need to let you know that you do have three days in which to cancel the order after you receive it.

Are there any other questions about your order? Thank you.

1 of 6

EXHIBIT 5A

HELLO (MR. OR MRS. _____)

THIS IS (YOUR NAME) WITH THE DISADVANTAGE. YOU REMEMBER US DON'T YOU? I WAS CALLING TO

THANK YOU FOR ALL YOUR PAST SUPPORT BECAUSE BELIEVE IT OR NOT. (MR. OR MRS. _____).

WITHOUT PEOPLE LIKE YOU THERE ARE NO JOBS FOR PEOPLE LIKE US. AND I JUST WANT TO TALK THIS

MOMENT OUT TO SAY THANK YOU SO VERY! NOW THE LAST TIME I SPOKE WITH YOU, YOU TOLD ME

TO WAIT A YEAR AND CALL YOU BACK AND YOU KNOW ONE THING ABOUT ME I KEPT MY WORD.

BECAUSE (MR. OR MRS. _____) MY WORD WAS ALL I EVER HAD WHEN I FIRST DIALED YOUR

NUMBER. NOW IT HAS BECOME THAT TIME OF YEAR WHERE WE MAKE OUR CALLS OUT FOR SUPPORT.

SO WHAT I'M NOT DOING IS I'M NOT JUST CALLING ASKING I'M BEGGING ON BEHALF OF MYSELF AS A

SINGLE PARENT & MY DAUGHTER PLEASE CLOSE YOUR EYES AND OPEN YOUR HEART. ANYTHING

SMALL GOES A LONG WAY JUST GIVE ME ONE MOMENT TO TELL YOU WHAT WE HAVE. AND IF YOU CAN

USE SOMETHING SMALL TO HELP US OUT JUST LET ME KNOW.

SAY WHAT YOU HAVE—THE PRICE—AND CLOSE THE DEAL!!!!

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EXHIBIT 54

HELLO MRS () HOW ARE YOU? WELL YOU SOUND GOOD THIS IS (),

WITH THE DISADVANTAGE WORKERS. MRS () CAN YOU BELIEVE THAT THEY NOW GIVE US

A CHANCE TO WORK FOR A LIVING AND BE A TAX PAYERS INSTEAD OF A TAX BURDENS. BUT

() I'M NOT CALLING YOU TODAY ASKING FOR ANY CHARITY OR HANDOUTS. JUST THE

CHANCE TO WORK, NOW MRS () THE WAY THAT WE WORK IS BY TAKING

ORDERS FOR YOUR HOUSEHOLD WITH OUR PRODUCTS! NOW MRS () I'M NOT ASKING

FOR A PENNY TODAY JUST A CHANCE. LET ME TELL YOU WHAT WE HAVE AND IF YOU CAN USE

SOMETHING SMALL TO HELP US OUT JUST LET ME KNOW.

****PRODUCT**---\$\$\$PRICE\$\$\$-- AND** CLOSE THE DEAL!!!!****

NOW IF YOU CAN DO ME ONE MORE FAVOR AND TAKE CARE OF THIS WITH A CHECK BY PHONE TODAY.

I'LL GET A \$50.00 FOOD BOX BUT IF NOT WE'LL JUST PUT THE BILL IN THE BOX FOR YOU TODAY!!!

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EXHIBIT 5A

NOW YOU KNOW (MR. OR MRS. _____) IF YOU CAN DO ME ONE LAST FAVOR I WILL GET A \$50.00

FOOD BOX TODAY THE WAY THAT I'LL GET THAT IS WHEN MY SUPERVISOR CALLS YOU BACK IF YOU CAN

TAKE CARE OF THIS ORDER TODAY WITH AN EXPRESS CHECK (CHECK BY PHONE).

4 of 6

REBUTLES

CAN'T AFFORD IT

- Ⓢ Well, if that is too much and so I don't have to lose work hours could you do something smaller? Even our smallest contributions go a long ways and it's not the size of the orders it's the heart.
- Ⓢ It won't be right now, it will be a month after you receive the product. So I don't lose credit could I substitute it for something a lot less.
- Ⓢ It's not going to be right now. If you don't want to prepay by check or credit card over the phone we trust that you receive the products in two weeks and still have an extra two weeks to pay.
- Ⓢ Well I thought that too but it takes a little help not much. Please just look at the cause and not the amount your helping a lot of people.

WHAT IS AES?

- Ⓢ We are a center for people that are for the most part unemployable in the mainstream work force. We are also able to make contributions to other charitable organizations.
- Ⓢ Advanced Employment Solutions
- Ⓢ It hires the disadvantage like myself and others with disabilities. And gives us a chance to be tax payers instead of tax burdens.
- Ⓢ Advanced Employment Solutions, it helps people with food, shelter and work. That's why I work here. So I can support my family.

WHY IS IT SO MUCH?

- Ⓢ Well that amount includes the shipping and handling. You're getting (multiple) items for less than you did last year.
- Ⓢ Because it's helping 10 disabled workers get back to the work industry.
- Ⓢ Well Mr. /Mrs. you're right and I can't argue with that fact, but please realize like I know you will you are not paying for the product. You're paying for the help.... It's for a good cause!
- Ⓢ We use the money to help support other organizations.

I AM NOT INTERESTED

- Ⓢ You gave me your good word that you would help a couple of months ago. And you won't have to send anything until a month after receiving the product.
- Ⓢ Is there any particular reason why you won't help the disadvantage people who need so much assistance?
- Ⓢ I understand that but its people helping people. By helping us you're also helping a lot of other family's not just mine.

EXHIBIT 5A

TOO MUCH MONEY FOR THE PRODUCT. WHY?

- ⓐ Well it's not about the product it's about the help. With your contribution I am able to take care of me and my family. Plus we do contribute to outside charitable organizations.
- ⓐ It's not for the product is to help a lot of the disables get back to work.
- ⓐ It's not the product it's the help. Please say that you'll help us!
- ⓐ I understand that but it's not for the product its contribution and what we do with it the product is just like a gift from us giving our thanks for your kindness and help.

SEND ME A LIST OF THE ORGANIZATIONS

- ⓐ We don't just send the product in the package there is a letter that tells you who we are and what we do.
- ⓐ We could do that and also you will receive the invoice and an envelope with our envelope to save you time and trouble when you're ready to send us your contribution.
- ⓐ It comes with your order telling you who and what you're helping.
- ⓐ If we send a list then will you promise to pay and that way I can get credit and keep my job to support my family?

DO NOT SEND IT BACK BECAUSE.....

- ⓐ I will lose work hours and shelter credit for me and my family. But if you need a little time that will be fine we do except installments.
- ⓐ I will lose credit for the work and they will take it out of my pay.
- ⓐ It will come out of my pay and we get credit based on your good word. It's not fair that it comes out of my check.
- ⓐ It will hurt our organization and what we do here. Please don't send it back we need your support.

MY HUSBAND/WIFE PASSED AWAY...

- ⓐ Sorry to hear that. They helped us the once a year and will be missed. Would you like to help in their memory?
 - ⓐ Will you do this for them it will be this last time and we'll take the number off our calling list. It won't be right now it will be a month from now.
 - ⓐ God bless you we will keep you in mind and get back with you.
 - ⓐ Well we have no life changes but if we can count on your support I am sure your spouse will be glad that you helped a good cause.
-

6076

Advanced Employment Solutions, LLC (AES) is a people oriented company with emphasis on helping our employees and commissioned people (callers) become productive members of our society. AES not only strives to build the personal well being of our employees and callers, we also encourage them to give back to our society and community by contributing to our many causes and drives. AES, employees and callers have donated to many causes for which we do not have receipts, such as collecting toys for children in hospital at Christmas, food and clothing drives for homeless people, along with monetary, clothes, toys and household items for disasters across our country and for needy people in our community.

Most of the callers who work at AES are recovered or recovering alcoholics or drug addicts, and have many physical and mental problems due to their usage. AES has worked with people who have cancer, allowing them to work when they could, so they could earn money for themselves. Many live in halfway homes. AES offers them a drug free office in which to work and allows them to take off time to attend meetings and allows them to work varied hours to meet their homes restrictions. AES administration encourages and gives them as much support as possible to stay off drugs and alcohol. AES administration has also assisted people to obtain medical help and assists them to get insurance as needed. When AES hires a new caller, they are loaned money to help them meet their daily needs until they can support themselves. There have been many times when money has been loaned and never repaid.

Most of our callers and office staff do not own vehicles. Therefore, when callers and employees need transportation to and from work, need trips to the Doctor or hospital, or need to get to stores for necessities, administration people provide them with transportation. Since many of our people are single parents, they are allowed to take time off to meet all their children's and personal commitments first in their obligations. AES allows everyone to bring their children into the work place if they cannot get baby sitters. We have encouraged and helped several of our people who are now enrolled in school to obtain degrees and further education to promote their future. AES has furnished callers with cell phones, when they were not able to come into the office, so they could stay at home and make calls to meet their monetary needs.

AES administration strives to keep a family atmosphere in the work place. Since many of our employees and callers, do not have families with which they associate, AES has birthday celebrations for them, where administration will provide cakes and refreshments. Every holiday the owner supplies the whole office with homemade meals and encourages those who can to supply side dishes. At Christmas time, AES holds a big Christmas party for all the callers, employees and their families with gift exchange and homemade food. All are given Christmas bonuses and days off during the various holidays to be with their families. During the normal week, meetings will be held to acknowledge callers and employees for advancements and outstanding work to bolsters their morale and well being.

The past year, sales have been very slow, and AES has not been able to make all the contributions that have been done in the past. In fact the owner has been supporting the company in order to meet payroll and the administrative cost of running the company.

The people who work at AES are not dead beats or bad people. They are people who have made bad choices in their lives and now are paying the price because they cannot get a job in the main stream workplace. The customers who are called by AES callers are either former customers of AES or former customers of our callers. Customers are not forced to purchase products. They can say either "yes" or "no". If they do not wish to be called again, AES puts them on our 'Do Not Call List' and they will never be contacted by AES again. AES has been contacted by several customers that have said they were being harassed by other companies to pay bills for products they did not received. AES has helped them file complaints with the proper authority and stopped the harassing calls. AES strives to be a reputable company that helps as many people as they possibly can help.

AES in the past has used a handicapped workshop in Phoenix to package several of their products and is still purchasing product assembled by a handicapped workshop in AR.

The owner of AES is a 73 year old widow, who is very active in her church and the Fraternal Originations of the Elks and Eagles. Many donations have been made to these organizations along with other organizations for which receipts were not received.

The future plans of AES are to support a non-profit organization and start making telephone calls to solicit donations for that organization to help as many people as possible.